IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

OP.No. 16463 of 1994(S)

AGAINST ORDER IN RA NO.125/1992 IN ITA NO.1073/1986 OF THE INCOME TAX APPELLATE TRIBUNAL, COCHIN BENCH

PETITIONER:

THE COMMISSIONER OF INCOME-TAX,
KARNATAKA-I, BANGALORE.

BY STANDING COUNSEL (INCOME TAX) MR.GEORGE K.GEORGE

RESPONDENT:

M/S.MALABAR INDUSTRIAL COMPANY
LIMITED, BANGALORE.

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

O.P.No.16463 of 1994-S

Dated, this the 25th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

The Revenue has filed this petition under Section 256(2) of the Income Tax Act, 1961 ('Act' for short), inter alia, requesting us to direct the Income Tax Appellate Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.1074 of 1986 dated 19.2.1992 for the assessment year 1985-86.

(2) The Tribunal has dismissed the appeal filed by the Revenue. The Revenue had filed an application under Section 256(1) of the Act requesting the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.1074 of 1986 for the assessment year 1985-86. The Tribunal has rejected the application.

(3) We have carefully perused the order passed by the Tribunal and also the questions of law raised by the Revenue for consideration and decision by this Court. In our opinion, the questions of law raised by the Revenue require consideration by this Court. Therefore, a direction requires to be issued to the Tribunal to state the case and refer the questions of law that would arise in I.T.A.No.1074 of 1986 dated 19.2.1992 for the assessment year 1985-86.

(4) Accordingly, the following:

Order

i) The petition is allowed.

ii) A direction is issued to the Tribunal to state the case and refer the

questions of law that would arise in I.T.A.No.1074 of 1986 dated 19.2.1992 for the assessment year 1985-86 for consideration and decision by this Court, as expeditiously as possible.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns